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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,600	03/06/2001	Italo Corzani	CM2011/MH	1483

7590 02/12/2003

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EXAMINER

SINGH, ARTI R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 02/12/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/786,600

Applicant(s)

CORZANI ET AL.

Examiner

Ms. Arti R. Singh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03/06/2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/6/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claims 1-7 are objected to because of the following informalities; in order to conform to standard U.S. practice, the word "characterized" in claims 1-7 should be changed to "wherein." Appropriate correction is required. Further, the use of British words like "vapour" may also be changed to the American "vapor".

### *Specification*

2. The disclosure is objected to because of the following informalities: There is inconsistency in language when referring to US Patents. In some instances Applicant refers to Us patents as US-A-#-###-### as seen on page 3, and then also refers to them as U.S. Patent No. #,###,### as seen on pages 1 and 4. Please use one or the other so that there is consistency throughout the disclosure.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The phrase "static water contact angle" is found to be vague and indefinite. It is unclear whether the "static water contact angle" is the same as the water contact angle, or if the term static renders the limitation to be something different than the water contact angle. In reference to Applicants' specification, although the specification states "static water contact angle," the term is abbreviated as "WCA." Therefore, the term "static" appears to be irrelevant. Proper clarification and/or correction are required.

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5. Claims 1-7 are further rejected under 35 U.S.C. 112, second paragraph for the phrase "coating renders a plane and smooth treated surface." It is unclear to the Examiner as to what is actually meant here. Is Applicant trying to say that the coating has no undulations? Furthermore, what is meant by the term "smooth"? Where does a skilled artisan draw the line as to what is "rough" and what is to be considered smooth, and thus it appears that in the absence of a clear and unambiguous definition how can one ascertain the meets and bounds of the phrase limitation "plane and smooth" used by Applicant. Please clarify.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4 are rejected under 35 U.S.C. 102 (b) as being clearly anticipated by Karwoski et al. (USPN 4,632,842). Karwoski et al. disclose many articles, all of which comprise a thin fabric (textile) which may be knitted, woven or nonwoven (column 3, lines 63-65) upon which is deposited a uniform coating of a fluoropolymer coating (column 4, lines 36-40). Patentee, discloses in column 5, lines 28-29, that the F/C ration is between 1.5 and 2.0, thereby meeting Applicant's desired limitation in claim 3. The preferred coatings of the invention have a water contact angle of greater than 120° (column 12, lines 1-24). With regard to Claim 4, the limitation of permeability desired by Applicant is found to be inherent in the articles produced by patentee, and by nature are clearly water vapor permeable.
8. Claims 1-7 are rejected under 35 U.S.C. 102 (b) as being clearly anticipated by EP 0 508 136 to Matsushita Electric. EP 0 508 136 to Matsushita Electric describes a swimsuit cloth which is surface treated with a fluorocarbon coating (Example 3). The static water angle is said to be

160°; the fluorine/carbon ratio is said to be 1.70 (Example 3). From page 3, line 52 onwards it can be clearly envisioned that the textile article is water permeable. In the paragraphs bridging pages 5 and 6 patentee discloses a list of applications, namely, outdoor garments, tents, swimwear etc. that the coated textile may be used for. With regard to the limitation of claim 6, the Examiner takes the position that awnings and sun blinds are equivalent to outdoor garments and/or tents, and thus, claims 1-7 are found to be anticipated by the patent.

### ***Double Patenting***

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F. 3d 1046, 29 USPQ 2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F. 2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F. 2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F. 2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F. 2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321 (c) may be used to overcome an actual or provisional rejection based in a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130 (b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73 (b).

10. Claims 1-7 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of copending Application No. 09/786,075. Although the conflicting claims are not identical, they are not patentably distinct

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from each other because they appear to be obvious variants of one another, and thus no patentable distinction is seen.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti R. Singh whose telephone number is 703-305-0291. The examiner can normally be reached on M-F 7:00am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-873-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Ms. Arti R. Singh  
Patent Examiner  
Art Unit 1771

ars  
February 8, 2003